

REMARKS

Reconsideration of the subject application as amended herein is respectfully requested. The Applicant has carefully considered the latest office action dated August 28, 2003 and hereby respectfully submits that the amendment and the following remarks are fully responsive to the official communication.

The claims have been amended in light of the official communication. It is submitted that no new matter has been added as a result of the amendment.

In paragraph 2 of the Detailed Action, the Examiner has rejected claims 1 to 8 and 16 under 35 U.S.C. 102(b), as being anticipated by Castillo et al. In response, Claim 1 has been amended to emphasize the fact that the inlet end portion has an enlarged diameter to define a shoulder at a junction of the inlet and outlet portions so that, when the outlet end portion is mounted in the drainage pipe, the shoulder bears against a substrate. Further, a length of the inlet end portion corresponds to a thickness of a screed layer to be formed on the substrate such that the inlet end portion defines a reference level arrangement for the screed layer.

It is respectfully submitted that Castillo et al. does not disclose such an inlet end portion. Rather, as can be seen in the drawings of Castillo et al, there is disclosed an inlet end portion that is of a reduced diameter. For example, please see lines 25 to 28 in column 3 of Castillo et al. It follows that Castillo et al cannot define a shoulder and an inlet end portion having a length suitable for defining the reference level arrangement. In particular, there is no reference to a screed layer in Castillo et al. Rather, it appears that the protective cover of Castillo et al is mounted in a concrete substrate, in use, as can be seen in figure 6B of Castillo et al.

Claim 1 has further been amended to emphasize the fact that the inlet end portion and the removable closure are configured so that, when the closure member is removed, a grate member can be fitted in the resultant opening. Castillo et al is directed to a protective cover for plumbing fixtures. It follows that the cover of Castillo et al is configured to be used to protect the fixtures against damage due to concreting and other work. In this regard, Examiner's attention is respectfully drawn to the "Field of the Invention" and lines 5 to 8, column 2. This is further emphasized by the paragraphs set out in lines 60 to 67, column 4 and lines 1 to 8 column 5 of Castillo et al. In particular, it should be noted that the cover of

Castillo et al provides a means whereby a position of the fixture can be set once concrete has been laid. Thereafter, "the plumber or other construction working (sic) can pour finishing grout as required, to complete the floor."

As set out in the present application, Applicant has identified that it is precisely at this point that the drainage pipe requires protection. Thus, with the present invention as claimed in claim 1, there is provided a means whereby the removable closure is replaced with the grate member as a final step. In view of the purpose of the cover of Castillo et al, it is respectfully submitted that such a means is not disclosed in Castillo et al.

In summary, it is respectfully submitted that Castillo et al does not disclose an inlet end portion and a removable closure being configured so that, when the closure member is removed, a grate member can be fitted in the resultant opening.

It is thus respectfully submitted that Castillo et al does not anticipate claim 1, as amended. Claims 6 to 13 are all dependent on claim 1. It follows that the above paragraphs are applicable to those claims as well.

Claim 16 has also been amended to introduce the limitations of claim 1. It follows that the above remarks are applicable to the rejection of claim 16.

In paragraph 3 of the Action, the Examiner has rejected claims 1 and 8 to 10 under 35 U.S.C. 102(b) as being anticipated by Dallmer. The amendment of claim 1 introduces the limitations of at least claim 2, namely that of the reference level arrangement. Applicant therefore respectfully submits that Dallmer does not anticipate claim 1, as amended.

Claims 8 to 10 are dependent on claim 1. It follows that the above paragraph is applicable to the rejection of claims 8 to 10.

It is respectfully submitted that the subject application as claimed herein is patentably distinguishable over the prior art of record. Accordingly, it is submitted that the application is now in condition for allowance.

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Hannah Epstein

Respectfully submitted,
GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Applicant(s)
270 Madison Avenue, 8th Floor
New York, New York 10016
(212) 684-3900

Tiberiu Weisz
Reg. No. 29,876

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